



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/214,518	08/22/2011	Patricia M. Kendall	41779-1	1495

144899 7590 05/04/2017
Ward Law Office LLC
120 1/2 S. Washington Street, Suite 207
Tiffin, OH 44883

EXAMINER

COX, STEPHANIE A

ART UNIT	PAPER NUMBER
----------	--------------

1791

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

05/04/2017

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jake@wardpatent.com
jenn@wardpatent.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PATRICIA M. KENDALL

Appeal 2016-003310
Application 13/214,518 ¹
Technology Center 1700

Before GEORGE C. BEST, DONNA M. PRAISS, and
SHELDON M. McGEE, *Administrative Patent Judges*.

PRAISS, *Administrative Patent Judge*.

DECISION ON APPEAL

The Examiner rejected claims 1–4, 10–12, and 18–20 of Application 13/214,518 under 35 U.S.C. § 103(a) as obvious. Appellant seeks reversal of these rejections pursuant to 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6.

For the reasons set forth below, we REVERSE.

¹ Patricia M. Kendall is identified as the real party in interest. Appeal Br. 2.

BACKGROUND

The '518 Application describes a wreath having one or more permanent decorations and one or more removable decorations releasably coupled thereto. Spec. ¶¶ 7, 18. Appellant characterizes the invention as follows:

The invention sought to be patented is a convertible wreath having at least one permanent decoration and at least one removable decoration, as well as a decoration kit for the convertible wreath and a method for producing the convertible wreath. The convertible wreath, the decoration kit, and the method of decorating the wreath of the invention have certain advantages over prior art wreathes, namely: maximization of the aesthetic and artistic appeal, independent of an artistic ability of each user; and providing a customizable appearance capable of [] many different concepts or motifs.

Appeal Br. 6.

Claim 1 is representative of the '518 Application's claims and is reproduced below from the Claims Appendix of the Appeal Brief (disputed limitation italicized):

1. A wreath comprising:

a substantially annular base having an innermost perimeter and an outermost perimeter, the innermost perimeter defining a central hole of the base, *the base having at least one permanent decoration coupled to the base at a permanent connection area of the base to cover an entirety of the outermost perimeter of the base*, wherein the at least one permanent decoration is glued in place and is not releaseably coupled to the base, the base further having a predetermined, unobstructed area disposed between the innermost perimeter and the outermost perimeter of the base, wherein an entirety of the unobstructed area is not covered by the at least one permanent decoration; and

at least one removable decoration releaseably coupled to the predetermined, unobstructed area of the base at an attachment area disposed in the unobstructed area,

wherein the attachment area is at an end of a riser that extends to a location disposed laterally outwardly from the base a predetermined distance, the riser permanently attached to the base and the end being a portion of the riser that is laterally farthest from the base, the location disposed beyond a facial coverage of the permanent decorations so that the attachment area is not covered by the permanent decoration,

wherein the base further includes a first coupling device disposed at the attachment area, and the removable decoration includes a second coupling device to releaseably couple the removable decoration to the base at the attachment area with the first coupling device, and

wherein the first coupling device and the second coupling device include one of a hook and loop coupling system and a magnetic coupling system.

Id. at 26.

REJECTIONS

On appeal, the Examiner maintains the following rejections:

1. Claims 1, 4, 10–12, and 18–20 are rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Glenn,² Matesi,³ and Errington.⁴ Final Act. 2–3.
2. Claims 2 and 3 are rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Glenn, Matesi, Errington, and Moody.⁵ Final Act. 7.

² US 6,667,079 B1, issued Dec. 23, 2003.

³ US 3,591,442, issued July 6, 1971.

⁴ US 2006/0117629 A1, published June 8, 2006.

⁵ US 2006/0210728 A1, published Sept. 21, 2006.

DISCUSSION

Rejection 1. The Examiner rejected claims 1, 4, 10–12, and 18–20 under 35 U.S.C. § 103(a) for the reasons stated on pages 3–7 of the Final Action.

Regarding claim 1, Appellant contends that the Examiner erred in finding that Glenn discloses a wreath with “permanent decoration” that “cover[s] an entirety of the outermost perimeter of the [substantially annular] base.” App. Br. 14–16 (citing Glenn Figs. 1, 2). Appellant also contends that the Examiner erred in finding that Glenn discloses “a predetermined, unobstructed area” to which “at least one removable decoration [is] releasably coupled.” *Id.* at 16–17. Appellant further argues that neither the pins nor the plant holder box of Glenn constitute a “riser” because (1) the pins do not have an attachment area located beyond a facial coverage of permanent decorations and (2) the box has a front wall and therefore similarly lacks the required attachment area and also is not permanently attached to the wire frame. *Id.* at 17–19.

Regarding the combination of Glenn with Matesi and Errington, Appellant asserts that neither Matesi nor Errington cure the deficiencies of Glenn. *Id.* at 14–22. In addition, Appellant contends that the Examiner has not articulated a reason to modify Glenn’s pins or box with Errington’s magnets and hook-and-loop fasteners, which attach alligator clips to a frame, and that the combination does not disclose the required “first coupling device disposed at the attachment area” that is “at an end of a riser.” *Id.* at 17–22. Finally, Appellant contends that the combination does not disclose the “removable decoration” required by claim 1 because the plant material and seasonal objects of Glenn lack a second coupling device which is not cured by the secondary references. *Id.* at 22.

The Examiner responds that the artificial foliage of Glenn “remain[s] on the wreath throughout each season and therefore it is obvious to make such decoration permanent” in view of Matesi which “show[s] a different means of attaching decorations to wreath frames (e.g. through the use of glue) and not specifically the permanent decorations.” Ans. 10. The Examiner also finds that “Glenn teaches that the artificial foliage is connected all over the base. Therefore, the artificial foliage of Glenn is considered to cover the outermost perimeter of the base (see Figure 3).” *Id.* The Examiner further finds that the pins or risers of Glenn must be unobstructed because “one cannot reasonably attach[] the decorations if one cannot see the area of attachment” and “Glenn does not state that the pins are covered by the artificial foliage.” *Id.* at 10–11. Regarding the required coupling device at the end of a riser, the Examiner finds that:

Glenn and Errington teach attaching removable decorations to wreaths in order to provide a decorative wreath. This is simply substitution of one known attachment device for another and would have been obvious to one of ordinary skill in the art to modify Glenn to use hook and loop or magnetic fastening means

for the purpose of attaching decorations to a wreath as taught by Errington. *Id.* at 12.

In the Reply Brief, Appellant argues that Glenn’s artificial foliage is not permanent because Glenn illustrates a bare wire frame in Figs. 1 and 2 “before the artificial foliage and other decorations are removably disposed thereon” and describes adding the artificial foliage to the frame. Reply Br. 5 (citing Glenn 3:37–39). Appellant also contends that “[t]here is no teaching or suggestion in Matesi to permanently attach any of the decorations by glue.” *Id.* at 7. Regarding Glenn’s foliage covering the entirety of the

outermost perimeter of the base, Appellant contends this finding is in error because Figs. 2 and 3 show otherwise, specifically, “a plant holder (30) that sits removably within, and when filled with plants covers a bottom portion of, the outer perimeter of the wire frame base (14).” *Id.* at 8. Regarding the pins and box of Glenn being risers, Appellant argues that pins 22 are covered by foliage 52 in Figs. 2 and 3 and that front wall 30 of plant holder 12⁶ does not have any attachment features. *Id.* at 10. Appellant also argues that Errington describes fasteners in a different location than claimed. *Id.* at 11.

We find Appellant’s argument that Glenn’s foliage, which the Examiner finds is a permanent decoration, does not “cover an entirety of the outermost perimeter of the base” persuasive of reversible error. Glenn’s Fig. 3 is shown below:

⁶ Glenn identifies the plant holder as item 12 and subsequently as item 14, however, item 14 is identified earlier in Glenn as loop 14. Glenn 17–32.

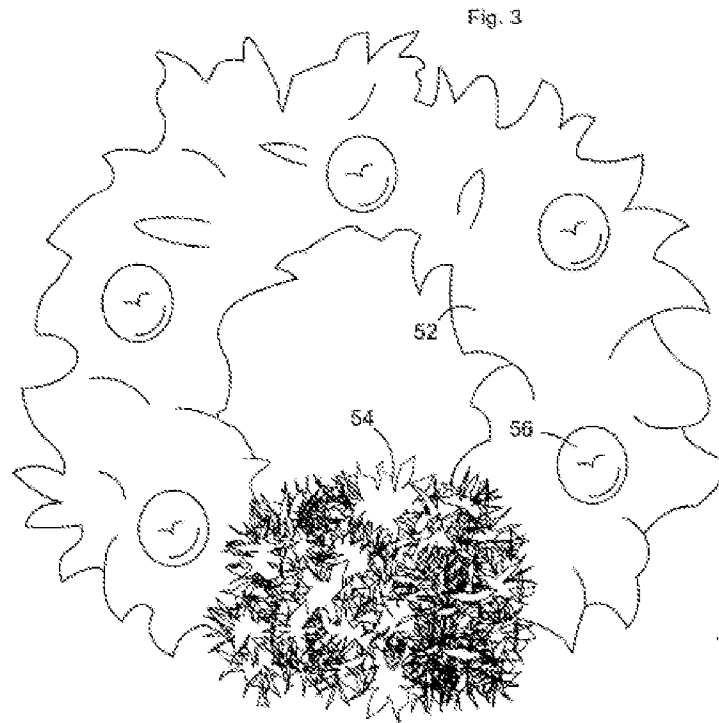


Fig. 3 is a front view of the wreath.

Fig. 3 is cited by the Examiner as disclosing the permanent decoration “cover[ing] an entirety of the outermost perimeter of the base” element of claim 1. Final Act. 3; Ans. 10. However, as argued by Appellant, the outermost perimeter of Glenn’s wreath is not entirely covered by foliage 52 because it is partially covered by plant material 54 that is held by Glenn’s box. App. Br. 16; Reply Br. 8. The Examiner does not separately find that foliage 52 covers the perimeter of the wreath underneath the plant material 54 or plant holder 12. The Examiner also does not explain how foliage 52 could “cover the outermost perimeter of the base” as recited in claim 1 given the presence of plant holder 12 on frame 10. In order to determine whether Glenn discloses or suggests covering the entirety of the outermost perimeter with artificial foliage 52, we consider the underlying frame itself shown in Figs. 1 and 2. After reviewing Fig. 3 together with the wreath frame shown in Figs. 1 and 2, we are convinced by Appellant that Glenn’s foliage 52 does

not cover the region of the perimeter where Glenn's box is located. Fig. 1 is shown below:

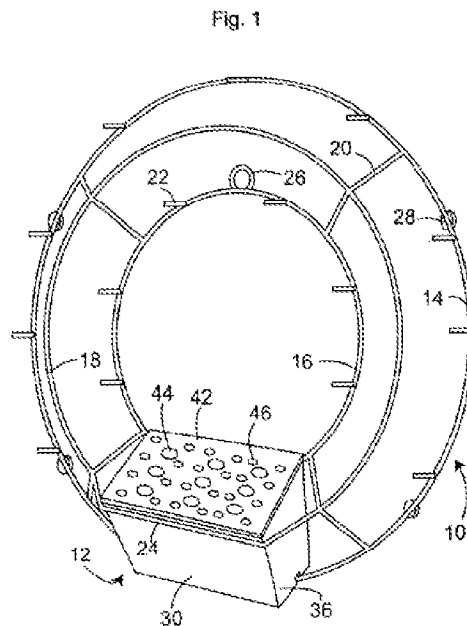


Fig. 1 is a perspective view of the wreath frame.

In Fig. 1, plant holder 12 rests on circular outer loop 14 of frame 10 and lower section 24 of front loop 18 extends forward for insertion of plant holder 12. Glenn Fig. 1, 3:17–32. Therefore, a portion of the outermost perimeter of Glenn's frame is covered by the plant holder and would not be available to be covered entirely by artificial foliage 52 in Glenn's Fig. 3. Accordingly, we determine that foliage 52 does not cover the entirety of the outermost perimeter of base 10. Because each independent claim requires that "an entirety of the outermost perimeter of the base" is covered with the permanent decoration(s), and because the Examiner does not rely on the secondary references to cure the deficiencies of Glenn, we find that the Examiner reversibly erred in finding claims 1, 4, 10–12, and 18–20 obvious over the combination of Glenn, Matesi, and Errington.

In view of the foregoing, we reverse the Examiner's rejection of claims 1, 4, 10–12, and 18–20.

Rejection 2. Appellant argues for reversal of the obviousness rejection of claims 2 and 3, which each depend from claim 1, for the additional reason that “the decorative ornaments (14) of Moody are also removable, and are not ‘permanent’ decorations as recited in dependent Claim 3.” Appeal Br. 24.

The Examiner responds that Moody is not relied upon for teaching permanent decorations. Ans. 13.

Because Moody also does not cure the deficiencies of Glenn, we reverse the Examiner’s rejection of dependent claims 2 and 3 for the same reasons discussed above with respect to claim 1.

In view of the foregoing, we reverse the Examiner’s rejection of claims 2 and 3.

CONCLUSION

For the reasons set forth above, we reverse the rejections of claims 1–4, 10–12, and 18–20.

REVERSED